

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Amo	Team: Team # 1	CCRB Case #: 200713450	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 09/15/2007 12:25 AM	Location of Incident: in front of § 87(2)(b)	Precinct: 101	18 Mo. SOL 3/15/2009	EO SOL 3/15/2009	
Date/Time CV Reported Sat, 09/15/2007 1:55 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 09/15/2007 1:56 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Edward Moore	31535	937131	101 PCT
2. POM Carlos Segovia	26422	937513	101 PCT
3. POM Glenn Ziminski	31231	940891	101 PCT
4. An officer			101 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer stopped § 87(2)(b)	
B.POM Edward Moore	Force: PO Edward Moore used physical force against § 87(2)(b)	
C.POM Glenn Ziminski	Force: PO Glenn Ziminski used physical force against § 87(2)(b)	
D.POM Carlos Segovia	Force: PO Carlos Segovia used physical force against § 87(2)(b)	
E.POM Edward Moore	Off. Language: PO Edward Moore made remarks to § 87(2)(b) based upon race.	
F.POM Edward Moore	Discourtesy: PO Edward Moore spoke obscenely and/or rudely to § 87(2)(b)	
G.POM Glenn Ziminski	Abuse: PO Glenn Ziminski did not obtain medical treatment for § 87(2)(b)	

Synopsis

On September 15, 2007, § 87(2)(b) of § 87(2)(b) in Far Rockaway, Queens, filed an online complaint at the CCRB in which she reported that at approximately 12:25 AM on September 15, 2007, uniformed officers from the 101st Precinct arrested her boyfriend, § 87(2)(b) of § 87(2)(b). § 87(2)(b) reported that prior to his arrest, an unidentified officer stopped him and his friends in front of § 87(2)(b) (**Allegation A**). § 87(2)(b) reported that later that day, she, along with § 87(2)(b) and several of their friends encountered PO Edward Moore and PO Glenn Ziminski both assigned to the 101st Precinct in front of § 87(2)(b). It is unknown what initiated the encounter, but PO Moore allegedly pushed § 87(2)(b) into a gate as he walked past him (**Allegation B**). PO Moore called for backup and PO Carlos Segovia and PO Gary Lin responded to the scene. PO Moore, PO Ziminski, and PO Segovia, engaged in a physical struggle on the ground in order to handcuff § 87(2)(b) (**Allegations B, C, and D**). During the physical struggle, PO Segovia fractured the fifth finger on his right hand. § 87(2)(b) reported that PO Moore said to him, “I’m not one of your friends, nigger” (**Allegation E**) and told him to “Shut the fuck up” (**Allegation F**). After his arrest, § 87(2)(b) alleged that PO Ziminski refused him the medical attention he requested (**Allegation G**).

§ 87(2)(g)

The present case was originally assigned to Investigator Michael Dever and was reassigned to the undersigned on October 30, 2007.

Summary of Complaint

§ 87(2)(b)

On September 28, 2007, Inv. Michael Dever interviewed § 87(2)(b) at his home, located at § 87(2)(b) Queens (encl. 8a-c). § 87(2)(b) is a § 87(2)(b)-year old black male who § 87(2)(b)

On September 15, 2007, at approximately 12:20 AM, § 87(2)(b) his girlfriend, § 87(2)(b) and their friends, § 87(2)(b) and § 87(2)(b) were standing in front of the building, § 87(2)(b) in Queens, where § 87(2)(b) and § 87(2)(b) reside. Two white male officers exited the building and approached them. One of the officers whom § 87(2)(b) referred to as “PO Mescina” because he arrested § 87(2)(b) in April 2007, said to the group, “Let me see your IDs.” [The investigation identified an officer, Lt. Gary Messina, assigned to the 101st Precinct, but there is no documented evidence that he was present on the scene, nor was there any record that he arrested § 87(2)(b) in April 2007]. Everyone in the group provided identification to “PO Mescina” who conducted a warrant check and dismissed the group from the front of the building after no outstanding warrants were found. The group then started to walk away from § 87(2)(b) to § 87(2)(b) s building, § 87(2)(b)

While walking away, § 87(2)(b) and his friends encountered a second group of officers, identified by the investigation as PO Edward Moore and PO Glenn Ziminski, of the 101st Precinct. PO Moore and PO Ziminski were walking from the rear of § 87(2)(b) § 87(2)(b) was dribbling a basketball, which he had in his hand. As the group crossed the officers’ path, § 87(2)(b) commented loudly to his girlfriend, (later in the interview he stated that it was to all his friends), “I bet they can’t beat me in basketball,” referring to the officers, and without having any particular officer in mind. § 87(2)(b) made the comment without gesturing in the officers’ direction. § 87(2)(b) s friends did not respond to the

comment, which he believed they heard, since they were very close to him as they walked past him on his left side.

Immediately, and without warning, PO Moore pushed § 87(2)(b) in the back. Later in the interview, § 87(2)(b) stated that PO Moore pushed him on the left side of his chest. When PO Moore pushed § 87(2)(b) he stumbled backward, and an unknown part of his body struck “a waist-high, black metal gate,” located to the right of him. When § 87(2)(b) s body struck the gate, the basketball fell out of his hands and went over the gate. § 87(2)(b) jumped over the gate to get the basketball. When he retrieved the ball and attempted to re-join his friends, PO Moore approached him by “jumping in my face,” and stated, “Do I look like your fucking friends or one of your niggers?” PO Moore was very close to § 87(2)(b) s face when he made this statement, but he did not touch § 87(2)(b). § 87(2)(b) said to PO Moore, “Who are you talking to?” To which, PO Moore responded, “I’m talking to you.” § 87(2)(b) told PO Moore to “get out of [his] face,” to which PO Moore responded, “Make me.” § 87(2)(b) turned around and began to walk away from PO Moore, but PO Moore grabbed him by his left arm and told him that he was under arrest.

When grabbed, § 87(2)(b) pulled his hand away from PO Moore, and PO Moore “jumped” on him, causing § 87(2)(b) to fall to the ground. Later, § 87(2)(b) stated that PO Moore tackled him so that he fell; face down, and to his side. Still later in the interview, § 87(2)(b) stated that PO Ziminski also tackled him to the ground. PO Moore lay on top of § 87(2)(b). At this point, § 87(2)(b) asked what he was being arrested for, but PO Moore did not answer him, and instead told him to put his hands behind his back. PO Moore placed one handcuff on § 87(2)(b) s right wrist. § 87(2)(b) protested that the handcuffs were too tight, and explained, “I wouldn’t let them cuff me. I still had my left hand free.” (Throughout the interview § 87(2)(b) s speech was laced with profanity, e.g., “What the fuck am I being arrested for?” “I told him that the cuffs were too fucking tight.”) Initially, § 87(2)(b) stated that PO Moore told him to “Shut up,” but later on in the interview, he stated that PO Moore told him to “Shut the fuck up.” § 87(2)(b) stated that he knew it was PO Moore who cursed at him because “He was right on top of me and I could hear him.” PO Moore had his knee in § 87(2)(b) s back.

During this time, § 87(2)(b) s friends repeatedly asked PO Moore what § 87(2)(b) was being arrested for, but PO Moore did not respond. § 87(2)(b) and the officers struggled on the ground for approximately ten minutes before he was handcuffed because § 87(2)(b) would not give the officers his hands. Later on in the interview, § 87(2)(b) stated, “It wasn’t that long. I don’t know how long it took.” § 87(2)(b) was handcuffed on the ground, after which time, the officers picked him up to a standing position. § 87(2)(b) maintained throughout the interview that he did not physically resist the officers after he was picked up from the ground. Now in an upright position, § 87(2)(b) saw a marked police van, full of about six uniformed officers. § 87(2)(b) continued cursing at the officers, stating, “What the fuck am I being arrested for? This is bullshit.” § 87(2)(b) was then placed in the patrol car and transported to the 101st Precinct. Only § 87(2)(b) was arrested. § 87(2)(b) believed that “PO Mescina” and his partner transported him to the precinct, but the investigation determined that PO Carlos Segovia and PO Gary Lin, both of the 101st Precinct, transported him to the precinct.

At the precinct, § 87(2)(b) was presented before the desk, where his pockets, pants legs and sneakers were searched. While in the cell, § 87(2)(b) said to PO Ziminski, “I’m missing a chunk out of my right elbow and I need to go to the hospital.” PO Ziminski did not say anything, continued to do paperwork, and “acted like they didn’t hear me.” Additionally, § 87(2)(b) reported that he sustained abrasions to the fifth finger, (pinkie) of his right hand. At the time of his CCRB appearance, § 87(2)(b) had his right hand bandaged and had indentation marks on his right wrist from the handcuffs. § 87(2)(b) explained that he did not receive medical treatment for his injuries because the officers refused to provide him with medical attention. At central booking, his elbow was bandaged by EMS. At Rikers Island, § 87(2)(b) received ointment for the abrasions.

Results of Investigation

Witness Statement

§ 87(2)(b)

On September 28, 2007, Inv. Michael Dever interviewed § 87(2)(b) of § 87(2)(b) § 87(2)(b) at her home (encl. 9a-b). § 87(2)(b) is a § 87(2)(b)-year-old, black female § 87(2)(b). § 87(2)(b) filed the complaint on the CCRB's website on September 15, 2007 (encl. 6a-d).

On September 15, 2007, at approximately 12:20 AM, § 87(2)(b) her boyfriend, § 87(2)(b) and their friends, § 87(2)(b) and § 87(2)(b) were walking from § 87(2)(b)'s house, § 87(2)(b) toward § 87(2)(b) where the aforementioned friends resided. They were going there to hang out. There were other people walking outside as well but they were not part of § 87(2)(b)'s group. While walking on the ramp in front of § 87(2)(b) § 87(2)(b) and her friends walked past some officers, whom she identified by name as PO Edward Moore and PO Glenn Ziminski of the 101st Precinct. Her boyfriend, § 87(2)(b) had a basketball in his hand, and bounced the ball around. § 87(2)(b) stated that § 87(2)(b) told her that earlier in the day, two unidentified officers stopped him and two unidentified male friends, but she was not present for this, and did not know which officers were involved or any details regarding the encounter.

In the second encounter, while walking past the officers, § 87(2)(b) commented to § 87(2)(b) and their friends that he could "play ball with the officers and dunk on them," meaning that § 87(2)(b) could beat the officers at a game of basketball. § 87(2)(b) did not know which officer § 87(2)(b) was referring to, but when § 87(2)(b) made the comment, some members of the group laughed, while others remained silent. § 87(2)(b) emphasized that § 87(2)(b) directed his comment to the group of friends and not to the officers.

PO Moore heard § 87(2)(b)'s comments and approached him. PO Moore grabbed § 87(2)(b) by his shirt and pushed him with one hand into a short gate, causing the ball in § 87(2)(b)'s hand to drop over the gate, and into the yard behind the gate. § 87(2)(b) did not say anything to PO Moore, but jumped over the gate to get his basketball. At this point, § 87(2)(b) and her friends asked PO Moore why he had pushed § 87(2)(b). PO Moore replied that he did not have to explain himself. When § 87(2)(b) retrieved the ball and re-joined his friends, § 87(2)(b) asked PO Moore why the officer had pushed him. PO Moore said to § 87(2)(b) "I'm not one of your friends. I'm not one of your niggers." § 87(2)(b) tried to walk away after PO Moore made the statement. However, PO Moore grabbed § 87(2)(b)'s arm. § 87(2)(b) yanked his hand away from the officer. At this point, PO Moore said to § 87(2)(b) "Now, you're under arrest." § 87(2)(b) and the rest of their friends collectively asked PO Moore for an explanation of the pending arrest, but PO Moore did not respond.

PO Moore attempted to place handcuffs on § 87(2)(b) at which time, § 87(2)(b) refused to be handcuffed, and told PO Moore that he did not know what he was being arrested for. PO Ziminski also took out his handcuffs, and he and PO Moore then "charged § 87(2)(b) to the floor and scraped up his elbow." § 87(2)(b)'s face was on the ground and § 87(2)(b) placed her hand in between the ground and § 87(2)(b)'s face to prevent § 87(2)(b)'s face from scratching and bruising. PO Moore called for backup and additional officers responded to the location, at which time, § 87(2)(b) was placed under arrest.

While on the ground, PO Ziminski tried to handcuff § 87(2)(b). PO Moore pushed § 87(2)(b)'s face to the ground, with his knee at the back of § 87(2)(b)'s shoulder blade, holding him down. § 87(2)(b) repeatedly told PO Moore to get off § 87(2)(b). PO Moore did not say anything to her and did not object to her putting her hand underneath § 87(2)(b)'s face to prevent it from being scraped on the ground. § 87(2)(b)

§ 87(2)(b) explained that § 87(2)(b) “did not have any physical ability to resist because he was on the ground.” A crowd had gathered and members of the crowd yelled at the officers to get off § 87(2)(b). § 87(2)(b) stated that the officers pulled out their aspms, but she did not see them strike § 87(2)(b) with it. § 87(2)(b) stated that she did not see the officers, kick, punch or slap § 87(2)(b).

§ 87(2)(b) went to the precinct after the incident and obtained the officers’ names and badge numbers from PO Moore, who was seated at the front desk. PO Moore provided his name and shield number. She also gave PO Moore money for § 87(2)(b) to use the pay phone.

§ 87(2)(b) On December 20, 2007, § 87(2)(b) called the undersigned and stated that he had received the contact letter sent to him on December 18, 2007, and provided a brief phone statement (encl. 10). § 87(2)(b) stated that he did not know § 87(2)(b) or § 87(2)(b) and did not recall the incident entirely, stating that both he and § 87(2)(b) were intoxicated at the time of the incident. § 87(2)(b) initially spoke about an unrelated incident in which § 87(2)(b) was arrested for having an open warrant. When asked if he observed any other encounters between § 87(2)(b) and officers, § 87(2)(b) began describing some aspects of the case under investigation.

§ 87(2)(b) incorrectly believed that the incident occurred in June, 2007. § 87(2)(b) could not provide concrete details regarding the incident except to say that he, his girlfriend, § 87(2)(b), and an unidentified male, whose identity he refused to disclose, had spent the evening hanging out at § 87(2)(b)’s apartment. The group had stepped out to walk § 87(2)(b)’s girlfriend, § 87(2)(b) home. § 87(2)(b) was bouncing a basketball when they got outside of § 87(2)(b)’s building. As they approached § 87(2)(b) about four patrol cars pulled up in front of the building. Upon the officers’ approach, they called out § 87(2)(b) by his name. § 87(2)(b) remembered that there was a physical struggle between § 87(2)(b) and an unknown amount of officers, whom he could not describe. The physical struggle occurred when the officers attempted to place § 87(2)(b) on the hood of a patrol car to handcuff him. § 87(2)(b) explained that § 87(2)(b) cursed out the officers but he was uncertain if the officers used profanity toward § 87(2)(b). After § 87(2)(b) was handcuffed, § 87(2)(b) saw that § 87(2)(b) had a bruise on one of his elbows. § 87(2)(b) did not recall if an ambulance was called to the scene and whether or not any officer was injured. § 87(2)(b) did not know why the officers arrested § 87(2)(b).

Attempts to contact additional witnesses

§ 87(2)(b) and § 87(2)(b) provided only the contact information for their friend, § 87(2)(b) during their report of the complaint. On November 21, 2007 and December 17, 2007, the undersigned called § 87(2)(b) and left voicemail messages but received no response. On December 18, 2007, the undersigned sent a contact letter to § 87(2)(b). To date, there has been no response and the contact letter has not been returned from the postal service. Regarding the additional witnesses whose names § 87(2)(b) provided in her CCRB statement, § 87(2)(b) did not provide their phone numbers, apartment numbers or dates of birth. The undersigned conducted a Lexis Nexis search for § 87(2)(b) and § 87(2)(b) and § 87(2)(b). The search showed that § 87(2)(b) and § 87(2)(b)’s phone numbers were disconnected. § 87(2)(b) did not have a phone number and no listing was found for § 87(2)(b). The Lexis Nexis search indicated that the witnesses resided at § 87(2)(b) but only § 87(2)(b) and § 87(2)(b) had their apartment numbers listed. Nevertheless, on December 18, 2007, the undersigned sent contact letters to all four witnesses. There was no response from § 87(2)(b) and the contact letter was not returned from the postal service. The contact letters sent to § 87(2)(b) and § 87(2)(b) were returned from the postal service because the apartment numbers could not be located.

Officer Statements

PO Edward Moore

PO Edward Moore of the 101st Precinct provided a statement to the CCRB on December 10, 2007 (encl. 15a-c). On September 15, 2007, PO Moore worked from 11:15 PM to 7:50 AM and was assigned to sector E/F/G, and worked with PO Glenn Ziminsky. PO Moore was dressed in uniform and assigned patrol car 1964.

PO Moore had the following **memo book** entries (encl. 14a-c):

12:00 AM: One male under arrest in front of § 87(2)(b) § 87(2)(b) DOB: § 87(2)(b) \$2.00 in change given to him by § 87(2)(b) § 87(2)(b) was charged with § 87(2)(b).

PO Moore prepared the **complaint and arrest reports** (encls. 12a-b, 13a-b), which showed that on September 15, 2007, he arrested § 87(2)(b) for “§ 87(2)(a) 160.50

§ 87(2)(b)” The narrative of the both reports indicated that “§ 87(2)(a) 160.50
§ 87(2)(b)
§ 87(2)(b)”

CCRB Statement

On September 15, 2007, PO Moore and his partner, PO Ziminski conducted a vertical in the New York City Housing Authority development of Beach Channel Drive, more specifically, in the vicinity of § 87(2)(b). After the vertical, the officers walked through the housing developments, heading south, away from the housing developments, with PO Ziminski approximately ten feet ahead of PO Moore. As they were walking, an individual with a basketball in his hands, later identified as § 87(2)(b) walked past PO Ziminski from the southbound direction of § 87(2)(b) walking toward § 87(2)(b). § 87(2)(b) was in a group of seven to eight other youth. § 87(2)(b) was “possibly dribbling the ball,” although PO Moore did not recall what specifically he was doing with the ball. Members of the group talked loudly amongst themselves, but PO Moore could not decipher what was being said. When § 87(2)(b) walked past PO Ziminski, he stated to the officer, ‘I’m going to fuck you up.’ § 87(2)(b) was at this point in front of § 87(2)(b). PO Moore explained that PO Ziminski did not hear § 87(2)(b)’s statement probably because he had his eyes on another group of individuals ahead of § 87(2)(b)’s group and continued walking on.

PO Moore explained that § 87(2)(b) made his comment loud enough so that he could hear him, and that § 87(2)(b) made the comment without provocation. Because PO Moore heard § 87(2)(b)’s comment, he looked at § 87(2)(b). § 87(2)(b) turned his gaze toward PO Moore and said to him, ‘What are you looking at? I’ll fuck you up too.’ PO Moore explained that he inferred from § 87(2)(b)’s statement that § 87(2)(b) wanted to fight with him. Only § 87(2)(b) made these comments and made them while he was still with his group of friends. While § 87(2)(b) was making the comments, the rest of the members of his group kept walking to § 87(2)(b). § 87(2)(b) had a slight lead in distance over them. PO Moore explained that § 87(2)(b) was standing next to him at this point so he said to § 87(2)(b) in a questioning manner, “What?” At this point, § 87(2)(b) lunged at PO Moore in a threatening manner. PO Moore immediately grabbed § 87(2)(b)’s wrists and placed handcuffs on one of his hands. § 87(2)(b) began to resist arrest immediately, by violently pushing and trying to get away. At this point, some of the members of § 87(2)(b)’s group told him to stop resisting, while others urged § 87(2)(b) to fight him.

PO Ziminski turned around and saw PO Moore and § 87(2)(b) engaged in a physical struggle. PO Ziminski came to assist PO Moore, at which time, he, and PO Moore wrestled § 87(2)(b) to the ground in an attempt to place him in handcuffs. PO Moore explained that § 87(2)(b) never stopped resisting, despite being told to stop fighting. Once on the ground, PO Moore called for additional units to respond. PO Moore believed that he was on the ground for several minutes but could not estimate the length of time. § 87(2)(b) was kicking, shoving, pushing, and trying to get his arms away. Once PO Moore gained control

of both of § 87(2)(b)'s hands, he handcuffed them. When additional units arrived, PO Moore had already handcuffed § 87(2)(b). However, § 87(2)(b) was still on the ground, face down, but he was still moving his body around. PO Moore did not strike, kick, punch, or slap § 87(2)(b) at any point, nor did he slam § 87(2)(b)'s head on the concrete. PO Moore did not see PO Ziminski use physical force against § 87(2)(b).

PO Carlos Segovia and his partner, PO Gary Lin assisted PO Moore and PO Ziminski in lifting § 87(2)(b) to his feet. While being lifted up from the ground, § 87(2)(b) resisted violently and shook his shoulders back and forth in a violent manner, and kicked his feet out so that PO Segovia, who held him by the handcuffs, fell on § 87(2)(b)'s handcuffs, breaking the fifth metacarpal in his right hand. PO Moore explained that § 87(2)(b) repeatedly twisted his body back and forth. Each time that § 87(2)(b) twisted his body, PO Segovia's hands were placed in an "unnatural position." PO Moore and PO Ziminski did not sustain any injuries. § 87(2)(b) was ultimately brought to his feet and an attempt was made to place him in PO Segovia's vehicle, because he was the transporting officer. However, § 87(2)(b) did not want to be placed in the patrol car and kicked his feet off the car. PO Moore stated that at no point did he make references to § 87(2)(b)'s race or say to him, "I'm not one of your fucking niggers," nor did he hear any officer make such a statement. PO Moore stated that he did not interact with any of § 87(2)(b)'s group members, although he instructed potential onlookers to back away from the scene. PO Segovia and PO Lin ultimately transported § 87(2)(b) to the 101st Precinct. PO Moore stated that there was a supervisor on the scene to verify the arrest but he did not recall which supervisor was present. PO Moore recalled that Lt. Messina was present on the scene although he did not remember what his role was in the incident.

PO Glenn Ziminski

PO Glenn Ziminski of the 101st Precinct provided a statement to the CCRB December 17, 2007 (encl.18a-c). On September 15, 2007, PO Ziminski worked with PO Edward Moore from 12:00 AM to 8:00 AM. PO Ziminski was dressed in uniformed and assigned to sector E/F/G and patrol car # 1964. PO Ziminski had no memo book entries regarding the incident (encl. 16).

PO Glenn Ziminski prepared a **Witness Statement-Injury to Member of Department Report** (encl. 17) in which he stated, "I observed PO Segovia trying to subdue a violent and aggressive defendant, at which time I saw PO Segovia trying to use proper handcuffing to control the defendant. The defendant was twisting and turning, causing PO Segovia's hand to go into an unnatural and uncomfortable position, which caused PO Segovia to fracture his right hand."

On September 15, 2007, at approximately 12:20 AM, PO Ziminski and PO Moore conducted a vertical at § 87(2)(b). PO Ziminski and PO Moore went to the roof of the building as part of the vertical and looking down from the roof, observed several black males engaged in what appeared to be a hand-to-hand sale or exchange of drugs at the street level, at the end of the block of § 87(2)(b). PO Ziminski stated that he was not sure what the males were doing so he and PO Moore exited the building to investigate. PO Ziminski stated that his whole focus was on the males. When they exited the building, he was approximately four feet ahead of PO Moore. As they walked on the walkway in front of § 87(2)(b) they encountered a mixed group of individuals, males and females, one who was subsequently identified as § 87(2)(b). PO Moore did not pay attention to this mixed group as they walked past him, going toward § 87(2)(b) because his eyes were fixed on the original group up ahead. When § 87(2)(b)'s group walked past PO Ziminski, someone in the group muttered something, which PO Ziminski did not hear. PO Ziminski described the group as otherwise quiet as they walked past him. PO Ziminski did not see anything in § 87(2)(b)'s hands. PO Ziminski recalled seeing a basketball on the scene but he did not observe any one in the group with a basketball and did not know who the basketball belonged to. PO Ziminski did not recall an incident involving § 87(2)(b) and the basketball. However, some moments after the group passed, he heard § 87(2)(b) loudly say to PO Moore that he was going to "fuck him up." PO Ziminski immediately looked behind him and saw § 87(2)(b) and PO Moore standing face-to-face. It appeared to PO Ziminski that § 87(2)(b) several times, lunged his body

forward toward PO Moore and said something to him, which he could not hear. At this point, PO Ziminski approached PO Moore to find out what was going on. During this time, the rest of the members of § 87(2)(b)'s group were standing around, not doing anything.

When PO Ziminski approached § 87(2)(b) and PO Moore, § 87(2)(b) was “acting very hostile,” stating that he was going to “punch PO Moore in the face.” PO Ziminski did not recall § 87(2)(b) addressing his statements to him, personally. PO Moore responded to § 87(2)(b)'s statement by telling § 87(2)(b) that he was going to be handcuffed. PO Moore instructed § 87(2)(b) to turn around and put his hands behind his back and gave the instructions without using profanity. PO Ziminski did not hear PO Moore make references to § 87(2)(b)'s race or say to him, “I’m not one of your fucking friends, nigger.” § 87(2)(b) did not comply but began cursing. PO Moore attempted to grab § 87(2)(b)'s hands and he pulled them back. PO Moore and PO Ziminski then grabbed onto § 87(2)(b)'s hands. However, § 87(2)(b) resisted “violently, twisting his body back and forth.” PO Ziminski stated, “We started rolling from there.” PO Ziminski explained, “Everything happened so fast, right in the path of § 87(2)(b)

PO Ziminski tried to restrain § 87(2)(b) by wrestling him to the ground by “kinda throwing him to the ground.” On the ground, § 87(2)(b) continued resisting, twisting his body around, rolling around and refusing to yield his hands. The officers instructed him to stop resisting arrest, in addition to some of the members of his group who also told § 87(2)(b) to stop resisting. However, § 87(2)(b) continued fighting with the officers. PO Ziminski explained that either he or PO Moore requested additional units to respond. It took approximately five minutes for another sector to arrive. During the five-minute waiting period, he and PO Moore were on the ground, trying to stop § 87(2)(b) from moving about and escaping. However, § 87(2)(b) did not stop resisting and neither officer was able to handcuff him until backup arrived. PO Ziminski explained that he and PO Moore placed their hands on § 87(2)(b)'s back and applied pressure and held him down by his shoulders to prevent him from getting up. However, § 87(2)(b) kept twitching back and forth. PO Ziminski stated that at no point did he or PO Moore kick, slap, punch, or push § 87(2)(b)'s face to the ground.

PO Carlos Segovia and PO Gary Lin responded as backup. When they arrived, PO Segovia assisted by getting on the ground to assist in handcuffing § 87(2)(b)'s hands. Later on in the interview, PO Ziminski stated that he did not recall if PO Segovia went to the ground. § 87(2)(b) twitched violently, preventing PO Segovia from placing handcuffs on him. All three officers struggled to handcuff § 87(2)(b). PO Ziminski did not know how § 87(2)(b) was handcuffed or by whom, but he was eventually handcuffed. During the physical struggle, PO Segovia broke the fifth metacarpal in his right finger. PO Ziminski was presented with the aided report and line of duty paperwork in which he had documents that PO Segovia had his hand in an “unnatural position.” When asked to explain what he meant by “unnatural position,” PO Ziminski responded, “I don’t recall. I don’t know what that is about.”

Once § 87(2)(b) was handcuffed, PO Segovia and PO Lin placed him in their patrol car and transported him to the precinct. PO Ziminski did not recall if § 87(2)(b) sustained any injuries and if any officer other than PO Segovia sustained injuries. PO Ziminski did recall § 87(2)(b) requesting medical attention, but he did not transport § 87(2)(b) to the hospital. PO Ziminski did not recall if EMS was called to the scene or at the precinct.

PO Carlos Segovia

PO Carlos Segovia of the 101st Precinct provided a statement to the CCRB on December 18, 2007 (encl. 22a-c). On September 15, 2007, PO Segovia worked from 12:00 AM to 8:00 AM with PO Gary Lin and was assigned to sector C/D. PO Segovia was dressed in uniform and assigned to patrol car# 1988.

PO Segovia had the following **memo book** entries (encl. 21a-b):

12:25 AM: 10-85 regarding sector E/F/G in front of § 87(2)(b) One under arrest by PO Moore. LOD injury received broken fifth metacarpal in my right hand. Went to § 87(2)(b) Received x-rays and splint.

PO Segovia prepared a **line of duty injury report** (encl. 20) in which he stated the following: “After wrestling suspect into handcuffs with the assistance of other officers, I was holding the suspect, § 87(2)(b) by the handcuffs when he twisted violently away, causing my hand and wrist to twist painfully into an unnatural position.”

CCRB Statement

On September 15, 2007, PO Segovia was on patrol with his partner, PO Gary Lin, in the vicinity of § 87(2)(b) when they heard a radio call for assistance. The radio call did not specify the sector or location where the assistance was needed. However, PO Segovia recognized the voice as belonging to PO Edward Moore, of the 101st Precinct. PO Segovia drove to § 87(2)(b) because PO Moore had come over the radio earlier on a different job, and had stated that he was conducting a vertical in the vicinity of that address.

Upon arriving at § 87(2)(b) PO Segovia observed a large mixed crowd congregated in front of the building. PO Segovia could not provide an estimate of the size of the crowd, but stated that he and his partner were the first officers present. PO Segovia and PO Lin went to the front of the 13-story apartment building, where they observed PO Moore and his partner, PO Glenn Ziminski, wrestling on the ground with a perpetrator, later identified as § 87(2)(b). The officers were situated in front of what appeared to be the front courtyard of the building, and they were pulling § 87(2)(b)'s hands behind his back in an attempt to handcuff him. § 87(2)(b) was positioned face down on the ground, and PO Moore and PO Ziminski were on top of him. § 87(2)(b) flailed his arms in the air, kicked his feet out, and twisted his body back and forth. PO Moore and PO Ziminski did not have him under control. Additionally, a hostile crowd closely surrounded PO Moore and PO Ziminski. PO Lin immediately assisted PO Moore and PO Ziminski in handcuffing § 87(2)(b). PO Segovia did not observe PO Lin's specific actions because his attention was initially focused on the crowd surrounding the officers. PO Segovia told the crowd to step back as a safety precaution and for a few moments, conducted crowd control. During this time, § 87(2)(b) was vocal and agitated and commented to the officers, along the lines of “fucking up an officer.”

Once the crowd stepped back, PO Segovia turned around and saw that § 87(2)(b) had still not been subdued. The other officers had one handcuff on one of his hands and the other hand was free. PO Segovia got on the ground with the other officers and assisted in handcuffing § 87(2)(b)'s free hand by bringing both of his arms together. PO Segovia did not recall who actually placed the second handcuff on § 87(2)(b)'s free hand. Throughout the handcuffing process, § 87(2)(b) moved about constantly, twitching and twisting his body. PO Segovia stated that at no point did any officer on the scene kick, punch, slap, or strike § 87(2)(b) on any part of his body. PO Segovia did not hear any officer on the scene make references to § 87(2)(b)'s race or call him “nigger” and he himself did not make such references.

Once § 87(2)(b) was handcuffed, PO Segovia picked § 87(2)(b) up from the ground, using his right hand to grab hold of the cufflinks which held the handcuffs together, and he and PO Ziminski and PO Moore guided § 87(2)(b) to a standing position, lifting him up. Once in a standing position, PO Segovia attempted to walk § 87(2)(b) away from the hostile crowd to his patrol car, parked in the middle of the § 87(2)(b). § 87(2)(b) had his hands behind his back and PO Segovia held him by the cufflinks. Initially, § 87(2)(b) was cooperative and moved a few steps. § 87(2)(b) walked in front, with PO Segovia walking directly behind him, holding on to the cufflinks. However, § 87(2)(b) began moving his body around in a twisting motion, shaking his shoulders back and forth, and jumping around, causing PO

Segovia's right hand to move up and down in the sway of § 87(2)(b)'s movements. "All of a sudden, he drops his weight on me, crushing my hand in between the handcuffs." PO Segovia further explained that § 87(2)(b) stopped walking and without warning, squat toward the ground, yanking PO Segovia's hand and body downward. PO Segovia had a steady grip on § 87(2)(b)'s cufflinks so that he could not escape, and the pressure of § 87(2)(b)'s sudden drop to the ground caused PO Segovia's hand to twist into an unnatural position, as § 87(2)(b) tried to crush the officer's hand with his body weight.

Although, § 87(2)(b) squat toward the ground, he did not sit on the ground. PO Segovia explained that he felt slight pain in his hand and "I didn't immediately think about it and I tried to pick him up again." However, § 87(2)(b) began twisting his body back and forth, refusing to stand upright. At this point, PO Ziminski, who was walking behind PO Segovia, assisted him in placing § 87(2)(b) into the patrol car. PO Segovia issued § 87(2)(b) several commands to stop resisting and to remain still without using profanity but § 87(2)(b) did not comply immediately. § 87(2)(b) was eventually placed in the patrol car and PO Segovia and PO Lin transported him to the stationhouse.

PO Segovia explained that it was not until after § 87(2)(b) had been lodged in the cells that he realized that the fifth finger of his right hand was broken. PO Segovia was transported to § 87(2)(b) where he was treated for a fractured fifth metacarpal in his right hand. PO Segovia was in the hospital for a few hours and released the same day.

PO Segovia stated that while he did not recall which supervisor came to the scene, he was certain that there was a supervisor present who "probably arrived after the incident was over." PO Segovia did not recall if Lt. Messina was on the scene.

Police Documents

SPRINT Report

The SPRINT report (encl.24a-c) showed that on September 15, 2007, 101st Precinct Sector E made an arrest in front of § 87(2)(b) and that sector C and a sergeant also responded to the scene.

Stop and Frisk Reports and Logs

Neither § 87(2)(b) nor any of his friends were not listed on the stop and frisk log for September 15, 2007 (encl. 25a-b).

Arrest Photo

§ 87(2)(b)'s arrest photo (encl.11) shows no visible injuries to his face or neck. There was a full length shot of § 87(2)(b) in a white t-shirt and jeans, which appeared to be dirty.

Aided Report

The aided report prepared by Sgt. Frank DiChristina showed that PO Carlos Segovia was transported to § 87(2)(b) for treatment of a "fracture of the fifth metacarpal of his right hand (encl. 19).

Medical Treatment of Prisoner Report

The medical treatment of prisoner report (encl. 29) showed that § 87(2)(b) received a laceration to his right elbow due to fighting with the police. § 87(2)(b) refused medical attention at the scene and at the 101st Precinct stationhouse.

101st Precinct Roll Call

The roll call (encl. 26a-m) for September 15, 2007, showed that PO Edward Moore and PO Glenn Ziminski worked together from 11:00 PM to 7: 00 AM and were assigned to patrol car # 1964 and to patrol sector E/F/G. The roll call further showed that PO Carlos Segovia and PO Gary Lin worked from 11:00 PM to 7:00 AM and were assigned to patrol sector C/D. Lastly, the roll call showed that Sgt. Frank

DiChristina was the platoon commander and that PO § 87(2)(b) Pachucki was the sergeant's operator. There was no lieutenant listed on the roll call.

101st Precinct Command Log

The command log for September 15, 2007 (encl.27), showed that PO Moore lodged § 87(2)(b) at the stationhouse at approximately 12:35 AM. § 87(2)(b) was listed in "good condition-slight scratches from scuffle with members of service." At 5:30 AM, § 87(2)(b) was transported to Queens Central Booking in van # 5873.

Prisoner Holding Pen Roster

The prisoner roster (encl. 28) shows that on September 15, 2007, § 87(2)(b) was lodged inside the cells at 12:50 AM and transported to Queens Central Booking at 5:30 AM.

Officer CCRB History

PO Edward Moore and PO Carlos Segovia are both three-year veterans of the NYPD with no substantiated allegations on their record (encl. 2 and 3). PO Glenn Ziminski is a two-year veteran of the NYPD (encl. 2) In CCRB # 200615678, the Board recommended charges for a stop and question allegation. The disposition of the case is not yet available.

Complainant's CCRB and Criminal History

§ 87(2)(b) has no history of previous CCRB complaints. § 87(2)(b) [§§ 86(1)(3)&(4)] § 87(2)(c)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Conclusions and Recommendations

Officer Identification and Pleading of Allegations

§ 87(2)(b) stated that before his encounter with PO Moore and PO Ziminski, a "PO Mescina and his partner" stopped him and his friends. A search of the Complaint Tracking System for derivatives of the name "Mescina," yielded two listings for "Messina," one of which is Lt. Gary Messina of the 101st Precinct. Given that the incident occurred in the 101st Precinct, § 87(2)(b)'s statement seemed plausible. However, a review of the roll call and command log for September 14, 2007 and September 15, 2007, did not show that Lt. Messina worked on these dates. There was no record of a lieutenant responding to the scene on the SPRINT report. A review of § 87(2)(b)'s arrest records showed no evidence that he had been arrested in the past by any of the officers on the scene (PO Moore, PO Ziminski, PO Segovia or PO Lin). Furthermore, none of the officers interviewed could definitively place Lt. Messina on the scene. § 87(2)(b) stated that she was not present with § 87(2)(b) during this alleged encounter, contradicting § 87(2)(b)'s statement. Finally, § 87(2)(b) did not recall having an encounter with officers other than those who arrested § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) provided the names of PO Edward Moore and PO Glenn Ziminski when she filed the online complaint. Additionally, officer statements and police documents confirmed that PO Moore and PO Ziminski interacted with § 87(2)(b). Based on PO Moore and PO Ziminiski's statements, PO Carlos Segovia and PO Lin were identified as the backup officers who responded to the scene. § 87(2)(b) and § 87(2)(b) alleged that PO Moore and PO Ziminski specifically used physical force against § 87(2)(b). The investigation determined that of the back up officers, PO Segovia also used physical force against § 87(2)(b). Thus, the force allegations were pleaded against all three officers. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

Undisputed Facts

On September 15, 2007, PO Edward Moore and PO Glenn Ziminiski encountered § 87(2)(b) his girlfriend, § 87(2)(b) and a group of their friends as the group walked from § 87(2)(b) toward § 87(2)(b) where the officers finished conducting a vertical patrol. In front of § 87(2)(b) PO Moore and PO Ziminiski, and later, PO Segovia, engaged in a physical struggle with § 87(2)(b) as the officers attempted to handcuff him. § 87(2)(b) resisted arrest and cursed at the officers, and in the course of the physical struggle, PO Segovia fractured the fifth metacarpal in his right finger.

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(b) alleged that earlier in the day, on September 15, 2007, before his encounter with PO Moore and PO Ziminiski, “PO Mescina” and his unidentified partner, stopped him, § 87(2)(b) and § 87(2)(b). There are several issues to be addressed regarding this aspect of § 87(2)(b)'s statement. As noted in the officer identification section, there was no documented evidence that Lt. Messina was present on the scene, nor was there any evidence that any of the officers who were present had arrested § 87(2)(b) in the past. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: Abuse of Authority: An officer stopped § 87(2)(b)

§ 87(2)(b) stated that before his encounter with PO Moore and PO Ziminski, a “PO Mescina and his partner” stopped him and his friends. § 87(2)(g)

Allegation B: Force: PO Edward Moore used physical force against § 87(2)(b)

Allegation C: Force: PO Glenn Ziminski used physical force against § 87(2)(b)

Allegation D: Force: PO Carlos Segovia used physical force against § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both alleged that PO Moore grabbed § 87(2)(b) and pushed him into a gate and tackled him to the ground before handcuffing him. PO Moore and PO Ziminski acknowledged that § 87(2)(b) was brought to the ground in an attempt to handcuff him and that both officers struggled with him on the ground, requiring further assistance from PO Segovia, who also engaged in a physical struggle with him.

Patrol Guide Procedure 203-11(encl.) states that “only that amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody, and that such persons taken into custody shall be rear cuffed at the earliest opportunity to reduce the potential for resistance, which may cause injuries.”

§ 87(2)(g)

Allegation E: Offensive Language: PO Edward Moore made remarks to § 87(2)(b) based on race.

§ 87(2)(g)

Allegation F: Discourtesy: PO Edward Moore spoke rudely and/or obscenely to § 87(2)(b)

Allegation G: Abuse of Authority: PO Glenn Ziminski did not provide medical treatment to § 87(2)(b)

§ 87(2)(b) alleged that during his encounter with the officers, PO Moore told him to “Shut the fuck up” and that PO Ziminski refused him medical attention upon request. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: